In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 2546 of 2004

Date of Decision: September 12, 2006

Sant Ram

…Petitioner

Versus

D.H.B.V.N.L. and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. Mani Ram Verma, Advocate,
for the petitioner.

Mr. Ravi Verma, Advocate,
for the respondents.

JUDGMENT

M.M. KUMAR, J. (Oral)

The prayer made by the petitioner is for quashing order dated 5.2.2004 (P-9) passed by the Superintendent Engineer, Operation Circle, Bhiwani, refusing to grant him the benefit of promotion w.e.f. 1.5.1981 from the post of Assistant Lineman to Lineman when persons junior to him were considered and promoted. It is admitted case of the petitioner that he has in fact been promoted

as Lineman w.e.f. 13.2.1986 and he has sought voluntary retirement on 14.11.2001 on attaining the age of 55 years. The case of the petitioner was considered for further promotion as Assistant Foreman on 8.4.2003 with immediate effect, which order was withdrawn on the ground that the petitioner, in fact, had already retired. The order was consequently withdrawn on 28.1.2004 as has been disclosed in para 3 of the reply.

After hearing learned counsel for the parties, we find that a cause of action with regard to promotion from the post of Assistant Lineman to that of Lineman arose to the petitioner on 1.5.1981 when persons junior to him were promoted on the post of Lineman. The qualification of Matriculation, which the petitioner has acquired in March, 1981, had made him eligible for promotion as Lineman but no order of promotion was passed in his favour in May, 1981 when other Assistant Linemen were promoted vide order dated 1.5.1981 (P-5). The petitioner kept quite and eventually promoted on 13.2.1986 as Lineman. It is well settled that the limitation period prescribed for the civil suit can be read into the filing of a writ petition as has been held by Hon'ble the Supreme Court in the case of **State of M.P. v. Bhailal Bhai, AIR 1964 SC 1006**. A suit for declaration could have been filed within a period of three years seeking promotion to the post of Lineman after May 1981. The petitioner earlier approached this Court in 2003 by way of C.W.P. No. 17132 of 2003, which was disposed of directing the respondents to decide his representation. Accordingly, his representation has now been decided by the impugned order and we find that it does not suffer from any legal

infirmity warranting our interference. The writ petition is wholly time barred and is a frivolous piece of litigation. We dismiss the petition on the ground of unexplained delay and laches.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

September 12, 2006
Pkapoor